



THE  
*Fifty-sixth*  
 TEXAS LEGISLATURE  
*A Review of Its Work*



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*The Fifty-sixth  
Texas Legislature*

A REVIEW OF ITS WORK

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# Foreword

For a number of years the Institute of Public Affairs has published a brief summary of the work of the Texas Legislature upon adjournment of each regular session. In view of the fact that the regular session of the Fifty-sixth Texas Legislature was followed by three successive called sessions, it was deemed advisable to include in this publication the principal actions of the called sessions as well as the general session which met in 1959.

In line with the earlier summaries, this monograph is a brief, factual resumé of the principal laws considered and passed by the Texas Legislature. Its purpose is to describe the principal actions which occurred and not to render any judgment as to the desirability or undesirability of any proposed or enacted legislation. Of necessity, all laws could not be included. Only those enactments of a general nature and of state-wide concern are described, together with some of the more significant proposals which did not become law. In connection with the latter, it should be emphasized that the exclusion of certain laws in no way infers that they had no merit or value. Time and resources simply would not permit an exhaustive analysis of each piece of legislation proposed but not enacted.

Although this undertaking is a joint product of the entire Institute staff, most of the research and writing was done by Research Associates Woodworth G. Thrombley and Wayland D. Pilcher. The material was reviewed by John T. Thompson, Research Associate, who made several suggestions for its improvement. In addition, several persons closely associated with the legislative process assisted the staff in this assignment. We particularly wish to express our thanks to Miss Doris Connerly, Legislative Reference Librarian, Texas State Library; Miss Sybil Dickenson of the Office of Secretary of State; and Mr. John Goldsum of the Governor's office for providing pertinent data and

making valuable suggestions. Their participation, of course, does not make them responsible in any way for the material here presented.

Publication of this summary is a research service of the University, and neither the University nor this Institute takes any official position with respect to the legislative issues and enactments which are discussed. All statements and views expressed are those of the staff members who accept full responsibility for them.

LYNN F. ANDERSON  
*Acting Director*

*Austin, Texas*  
*August, 1959*

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# THE FIFTY-SIXTH TEXAS LEGISLATURE

## A REVIEW OF ITS WORK

### Introduction

THE FIFTY-SIXTH TEXAS LEGISLATURE, consisting of the general and three called sessions, met for 201 calendar days between January 13 and August 6, 1959. A total of 1,810 House and Senate bills were introduced during all of these sessions, and of this number 608 were passed by both houses and sent to the Governor. The Governor vetoed 16 of the enacted bills as well as several items of the General Appropriation Bill, leaving 592 to become the law of the state. Seventy-six proposed amendments to the Texas Constitution were introduced in the regular session, but only four were passed for submission to a vote of the people. A breakdown of the bills and resolutions acted upon and passed by the Legislature in each of its 1959 sessions is given in the table on page 2.

The number of special sessions following the general session of the Fifty-sixth Legislature was an experience which had not occurred in Texas for 23 years. Although one or two called sessions have met in recent years, it was in 1936 that as many as three called sessions had last been convened. The called sessions of 1959 resulted from and were highlighted by the serious financial situation which necessitated the provision of substantial sums of new tax revenue. When the general session convened on January 13, it was confronted with the forecast of the Comptroller that the General Revenue Fund would have a prospective deficit of \$65.2 million as of August 31, 1959 and that a total of \$167 million in new revenue would be required to finance existing programs for the 1959-61 biennium. Added to this condition brought about by adverse developments in the 1957-59 biennium were record requests for new appropriations by virtually all of the state's agencies and institutions. In the months that followed, the divergent views of members of the Legislature on what should be taxed to provide the

# SUMMARY OF BILLS AND RESOLUTIONS INTRODUCED AND ENACTED, FIFTY-SIXTH TEXAS LEGISLATURE

## General and Called Sessions

1959

	House		Senate	
	Introduced	Enacted	Introduced	Enacted
<b>REGULAR SESSION</b>				
Bills .....	999*	306	487	208
Joint Resolutions .....	61	3	15	1
<b>FIRST CALLED SESSION</b>				
Bills .....	72	10†	23	13
<b>SECOND CALLED SESSION</b>				
Bills .....	82	18	49	27
<b>THIRD CALLED SESSION</b>				
Bills .....	62	10	36	16
Totals .....	1,276	347	610	265

\* The last bill introduced was numbered 1,000; however, there was no H.B. 557.

† H.B. 12 (1st C.S.) directing payment of certain miscellaneous claims and judgments out of the general appropriations, although passed by the Legislature, was not approved by the Comptroller and is not included in this count.

required revenue became deep-seated and time-consuming. The principal cleavage was between those who believed strongly in consumption taxes, either in the form of general or selective sales taxes, and those who favored alternative forms of taxation, including a tax on natural gas transported out of the state. The final tax product, a compromise which included both selective sales taxes and a severance beneficiary levy on natural gas, provided a solution at least for the 1959-61 biennium and left Texas as one of two states with neither an income tax nor a general sales tax.

Although the 1959 Texas Legislature was necessarily preoccupied with the tax problem, the record indicates that many other significant laws were put on the statute books. As subsequent paragraphs will show, these laws ranged all the way from a statute protecting public



access to Gulf Coast beaches, to changes in dates of the Democratic Party Primary elections, to an increase in the maximum weight limit for commercial trucks using the state's highways. Several recodifications were accomplished, including one of the tax laws exclusive of those relating to property taxation. Four proposed amendments to the constitution were passed for submission to a vote of the people in November of 1960, and a number of interim studies were authorized in anticipation of the next general session in 1961.

Upon adjournment on August 6, the major piece of unpassed legislation was that relating to the Hale-Aikin program for improvement of education in the elementary and secondary schools of the state. The widespread interest in these proposals immediately led to speculation that the legislature would again be called into special session to act thereon. Shortly after adjournment, the Governor announced that such a special session would not be called until early in 1960 and then only if public action indicated its feasibility. If a special session is called to grapple with the Hale-Aiken recommendations, the Fifty-sixth Texas Legislature will have at least a Fourth Called Session before its labors are finally completed.

## Bills and Resolutions Enacted

### APPROPRIATIONS

The general appropriation bill (H.B. 4, 3rd C.S.)<sup>1</sup> passed by the Fifty-sixth Legislature was the largest spending measure ever enacted into law for the State of Texas, and exceeded by some 12 per cent the spending program of the previous legislature. Total appropria-

<sup>1</sup> The following abbreviations are employed throughout: H.B. for House Bill; S.B. for Senate Bill; H.J.R. for House Joint Resolution; H.C.R. for House Concurrent Resolution; H.S.R. for House Simple Resolution; S.R. for Senate Resolution; and C.S. for Called Session.

tions voted by the Legislature for the 1959–61 biennium amounted to \$2,418,557,106, with \$1,207,865,598 being specified for the 1959–60 fiscal year and \$1,210,691,508 for 1960–61. After adjournment of the Legislature, the Governor vetoed three items in the appropriation act totaling \$2,449,500. This reduced the annual totals to \$1,205,516,098 for 1959–60 and \$1,210,591,508 for 1960–61. A breakdown of each of these totals, by appropriation categories used in the bill, is given in the following table.

## ALL FUNDS APPROPRIATIONS

### STATE OF TEXAS

Fiscal Years 1959–60 and 1960–61

Functions/Agencies	1959–60	1960–61
Judiciary .....	\$ 4,677,052	\$ 4,659,717
State Hospitals and Special Schools..	46,404,924	42,975,710
Legislative, Executive, and Administrative Agencies .....	669,795,134	668,788,594
Public Education* .....	477,501,488	487,029,987
Employee Pay Raise† .....	7,137,500	7,137,500
	<u>\$1,205,516,098</u>	<u>\$1,210,591,508</u>

\* Includes elementary and secondary education, public junior colleges, and higher education.

† Applies to all agencies, but not separately allocated because of late insertion in bill.

Of the total appropriations of \$2.416 billion for the biennium, only \$321,633,008—or 13.3 per cent—comes from the state's General Revenue Fund. The remainder is financed out of a host of special revenue funds which receive earmarked taxes and other types of revenues. In the case of certain agencies in the "Legislative, Executive, and Administrative" category, such as the Texas Highway Department and the Department of Public Welfare, much of the appropriation

represents grants from the federal government. Following is a breakdown of the General Revenue Fund appropriations for the 1959-61 biennium.

## GENERAL REVENUE FUND APPROPRIATIONS

Fiscal Years 1959-60 and 1960-61

Functions/Agencies	1959-60	1960-61
Judiciary .....	\$ 4,677,052	\$ 4,659,717
State Hospitals and Special Schools.....	46,270,924	42,975,710
Legislative, Executive, and Administrative Agencies .....	37,383,475	29,060,941
Public Education .....	74,517,599	75,587,590
Employee Pay Raise .....	3,250,000	3,250,000
	<u>\$166,099,050</u>	<u>\$155,533,958</u>

The total appropriations from the general revenue fund for 1959-61, \$321.6 million, represent a \$40.5 million increase over the present level of spending from this fund. The largest portion of this increase, \$15.7 million, went for enrollment increases and higher faculty salaries at the state-supported colleges and universities. Other increases in the education category were .8 million for increased enrollments at public junior colleges and .5 million for state administrative costs related to elementary and secondary education. The second largest increase from the General Revenue Fund was for Legislative, Executive, and Administrative agencies—\$10.5 million. This increase represented better financial support for a number of state programs and agencies, and also included \$4.3 million for the retirement of old state bonds which were long overdue. An increase of \$5.2 million was made for the state's hospitals and special schools. A portion of this amount is specified for buildings housing the mentally retarded. Also included in the increase

was an appropriation for additional facilities at the Gatesville State School for Boys and an increased operating budget for the Texas Youth Council. The increase for the judiciary is represented largely by the cost of new courts, and the pay raise for state employees amounting to \$6.5 million was designed to provide an annual salary increase of \$180 for those persons making between \$2,400 and \$6,000 per year.

## TAXATION

As noted, the problem of taxation was one of overriding importance in the general and three called sessions of the Fifty-sixth Legislature. The governing body of the state was faced with the necessity of enacting the largest tax bill in the history of the state. Its size, coupled with the conflicting views and philosophies of taxation which always exist in representative assemblies, made the Legislature's task both difficult and time-consuming. It was not until July 30, midway in the Third Called Session, that a tax bill adequate for the state's financial needs for the 1959-61 biennium was enacted. At that time, H.B. 11 was passed by a sufficient vote to make it effective on September 1, 1959.

As a package, H.B. 11 imposed certain new taxes for the first time, increased the rates of some existing levies, repealed several existing taxes, and recodified the tax statutes generally. In terms of the types of taxes imposed, the bill was dominated by selective sales taxes and thus continues the traditional Texas pattern of relying heavily on selective excises for a large portion of the state's revenue. By far the largest single tax enacted was the increase in the cigarette tax from 5 to 8 cents per pack. This increase is estimated to yield \$64.4 million during the next biennium. In addition to the cigarette tax, other existing taxes whose rates were increased included those on liquor and wine; corporation franchises; automobiles; gas, electric, and water utilities; and radio, television, and phonograph sets. New taxes were imposed on radio, television, and phonograph components; jewelry and furs costing over \$25; hotels and motels; boats and motors; air conditioners; tobacco (except snuff); and natural gas severance beneficiaries. The rates for each of these taxes, together with the estimated yield for the 1959-61 biennium, are shown in the following table.

# SUMMARY OF 1959 STATE TAX LAW

H.B. 11, Third Called Session

Item Taxed	Old Rate	New Rate	Increased Biennial Yield*
Cigarettes	5¢ per pack	8¢ per pack	\$ 64,458,000
Liquor Wine	\$1.40/gal. (1) .11/gal. less than 14% alcohol (2) .22/gal. 14-24% alcohol (3) .55/gal. over 24% alcohol (4) .275/gal. sparkling wines	\$1.68/gal. (1) .132/gal.  (2) .264/gal.  (3) .660/gal.  (4) .330/gal.	6,334,800
Corporation Franchise	\$2.25/\$1,000 of capital value	(1) \$3/\$1,000 9-1-59 to 5-1-60 (2) \$2.75/\$1,000 5-1-60 to 5-1-62 (3) \$2.25 after 5-1-62	32,500,000
Automobiles	1.1 per cent of selling price	1.5 per cent of selling price	15,500,000
Gas, Electric, and Water Utilities	(1) Cities under 1,000 population —0— (2) Cities of 1,000-2,499— 0.484% of gross receipts (3) Cities of 2,500-10,000— 0.891% (4) Cities over 10,000-1.66375%	(1) —0—  (2) .581% of gross receipts  (3) 1.07% of gross receipts  (4) 1.997% of gross receipts	3,100,000

Item Taxed	Old Rate	New Rate	Biennial Yield* Increased
Radios, T.V. Sets, and Phonographs	2.2% of retail price	3% of retail price	} \$ 8,200,000
Radio, T.V., and Phonograph Components	None	3% of retail price	
Jewelry and Furs Costing Over \$25	None	3% of retail price	5,000,000
Hotels and Motels	None	3% of room rates	6,600,000
Boats and Motors	None	1.5% of retail price	2,800,000
Air Conditioners	None	3% of retail price	7,575,000
Tobacco (except snuff)	None	25% of factory list price <sup>1</sup>	14,500,000
Natural Gas Severance Beneficiaries	None	1.5% of market value	15,600,000
Total Increase—Specific Taxes .....			\$182,167,800
Increase—Improved Enforcement .....			300,000
Total Biennial Revenue Increase .....			\$182,467,800
Less: Reduction in Theater Taxes <sup>2</sup> .....			\$ 90,000
Repealed Taxes <sup>3</sup> .....			604,000
Total Revenue Reduction .....			\$ 694,000
Net Revenue—H.B. 11 .....			181,773,800
Improved Administration—Other Statutes .....			4,000,000
Total Revenue Increase .....			\$185,773,800

\* Yield figures shown are those of the legislative committee, not official estimates of the Comptroller of Public Accounts.

<sup>1</sup> Rates on cigars are:

(1) Those weighing not more than 3 pounds per 1,000—\$1.00 per 1,000, or 1¢ per 10 cigars.

- (2) Those weighing more than 3 pounds per 1,000 and retailing for not more 3.3¢ each—\$7.50 per 1,000, or  $\frac{3}{4}$ ¢ each.
- (3) Those weighing more than 3 pounds per 1,000 and retailing for more than 3.3¢ each—\$15.00 per 1,000, or 1.5¢ each.

<sup>2</sup> Theater admission taxes were reduced as follows:

New	Old
Admission price \$1.06–\$1.15—1¢ tax	Admission price \$1.01–\$1.10—6¢ tax
Admission price \$1.16 and over—2¢	Admission price \$1.11 and over—7¢
plus 1¢ for each additional 10¢ or fractional part in excess of \$1.25	plus 1¢ on each 10¢ over \$1.20

<sup>3</sup> Taxes on the following were repealed: collecting agencies; textbook publishers; itinerant merchants; traveling vendors of patent medicines; itinerant physicians; clock peddlers; credit reporting; street car companies; circuses and shows; menageries, museums, and carnivals; waxworks; wrestling matches and acrobatic performances; sleight-of-hand performances; concerts; rodeos; baseball parks; skating rinks; shooting galleries; hobby horses; dealers in cannon crackers; prizes and awards; and motor carriers.

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Included in the increased revenue to be gained from the tax bill is \$300,000 from improved enforcement of the taxes on special fuels, such as liquefied gases and diesel fuel. An additional \$4 million is anticipated from improved administration of all other state taxes under other statutory authorization, making the total gross revenue gain amount to \$186,467,800.

Offsetting the revenue gains in H.B. 11 were some relatively small tax reductions. Admission taxes to theaters were reduced, cutting revenue from this source by \$90,000 for the biennium. An additional revenue reduction of \$694,000 for the biennium resulted from the repeal of several minor taxes, notably a large group of archaic and unproductive occupation taxes. After deducting this combined revenue loss of \$694,000, the tax bill and improved enforcement were estimated to produce a net additional revenue of \$185.7 million for the biennium—an amount sufficient to finance appropriations as voted in the General Appropriations Bill and to retire the outstanding General Revenue Fund deficit.

Much less prominent than the new taxes and tax increases, but equally significant, are the recodification provisions of H.B. 11. In addition to removing a number of obsolete, minor taxes, most of the remaining tax statutes were recodified by H.B. 11 into an entirely new section of the Revised Civil Statutes. This new section, known as Title 122A, brings together into a single, well-organized, volume all of the statutes affecting state taxation except those governing the property

tax. For individuals directly involved in the administration, study, and interpretation of the tax laws—as well as citizens generally—this is widely regarded as a step in the right direction and will unquestionably be a monument to the constructive labor of the Fifty-sixth Legislature for many years to come.

In addition to the major tax enactment in H.B. 11, the legislature passed several other acts affecting state and local taxation. One of these is H.B. 955 which exempts from taxation the property of associations engaged in the educational development of youth through programs which demonstrate the operation of the American system of private enterprise.

H.B. 45 requires the County Tax Assessor-Collector to act as Assessor-Collector for rural fire prevention districts.

S.B. 176 permits school districts located in counties of more than 150,000 population and having authority to levy a property tax of \$1.75 for maintenance purposes, to levy 50 cents out of this tax rate for the purchase, construction, repair, and equipment of school buildings.

H.B. 121 amends existing law to permit local units of government to contract with the municipality in which it is partially or wholly located for the assessment, equalization, and collection of their property taxes. Under prior law, this could be done only if the city or district availing itself of this authority were located within the city contracted with.

S.B. 197 provides for refunds of liquor stamp taxes in cases where stamped liquor is returned to a distillery or destroyed, where unused stamps are in possession of a business being discontinued, and where stamps of improper value have been placed on bottles and later destroyed. This bill also provides for refunds of beer taxes where there has been erroneous overpayment or where the taxed beer is declared to be unsalable.

S.B. 344 amends the Inheritance Tax Law by extending the exemption on foreign bequests to the United States or any religious, charitable, or educational institution where such bequest is used within a five-state region which includes the State of Texas. Previously, the exemption applied only when the property so transferred was used only within Texas.

S.B. 403 transfers administration of the corporate franchise tax from the Secretary of State's office to the Comptroller of Public Ac-



counts. This transfer is to be made only after a plan for reorganization of the tax collection functions in the Comptroller's office has been submitted to, and approved by the Governor.

S.B. 452 exempts veteran's organizations from paying the state tax on admissions to theaters and places of amusement.

S.B. 312 defines "cigarettes" and "cigars" to clear up ambiguities in the administration of the state cigarette tax law.

S.B. 348 transfers authority for design and printing of cigarette tax stamps from the Cigarette Tax Stamp Board to the Comptroller of Public Accounts. By so doing, the ex-officio Board is abolished.

## ACCOUNTING

Closely related to the tax legislation enacted by the legislature was a proposal in the Governor's program for retiring the general fund deficit known as the "Comptroller's bookkeeping bill." This bill (H.B. 5, 1st C.S.) requires the Comptroller of Public Accounts to credit revenues received during the last month of the fiscal year to that year's accounts. The purpose of the law was to require the crediting of revenues received during the month of August, 1959 to the 1958-59 fiscal year which ended on August 31, 1959 rather than in the following month of September, as had been done previously. The effect of the bill was to reduce the deficit in the General Revenue Fund by some \$28 million before the end of the 1958-59 fiscal year.

In addition to this basic accounting change, the bill also changed the timing of certain transfers from the Omnibus Tax Clearance Fund to certain operating funds for the purpose of avoiding temporary overdrafts in the General Revenue Fund during the course of any fiscal year. The law also provided for a Committee on State Revenue Estimates composed of the Governor, Director of the Legislative Budget Board, and the State Auditor to review the State Comptroller's estimates.

## STATE ADMINISTRATION

*State Boards & Agencies.* Implementing a constitutional amendment adopted in November, 1958, the "advertise Texas bill," S.B. 152, was enacted. It provides for a three-member Texas Development Board, composed of the Governor, the Chairman of the Texas Industrial Commission, and the Chairman of the Texas Highway Com-

mission. The Board is to coordinate the advertising activities of the Highway Department (promotion of travel) and the Texas Industrial Commission (promotion of industrial expansion).

S.B. 88 gives the Board of Nurse Examiners authority to set up educational requirements for nurse licensing.

H.B. 105 reconstitutes the State Seed and Plant Board and provides for licensing of certified seed growers.

S.B. 394 increases membership on the Industrial Commission from five to nine members. A similar measure, H.B. 597, increases the terms of office of members of the State Board of Public Accountancy from two to six years.

S.B. 402 authorizes the Comptroller of Public Accounts to reorganize his office and to install and operate a central electronic computing and data processing center for accounting and other financial activities. A companion bill, S.B. 403, transfers administration of the state franchise tax from the Secretary of State to the Comptroller's office.

S.B. 17 creates a new state agency, the Texas Co-ordinating Commission for State Health and Welfare Services, to study and make recommendations for the co-ordination of the state's health and welfare programs.

S.B. 143 transfers control of the Texas Memorial Museum to the Board of Regents of The University of Texas.

By adding additional purposes for which appropriations to the Liquor Control Board may be used, S.B. 207 makes it possible for the Board to establish adequate revenue collection stations at the International Bridge Ports of Entry of Laredo, Eagle Pass, and Brownsville.

S.B. 235 authorizes agencies of the state government to make transfers of personal property to one another with or without reimbursement, and S.B. 44 permits the State Building Commission to purchase land in any Texas city for the construction of state office buildings.

S.B. 18 (3rd C.S.) increases the per diem compensation of members of the State Board of Health to \$20, including time spent in travel. Total compensation for each member, including per diem and travel expenses, is limited to \$1,000 per year.

*Salaries & Fees.* A Senate bill, S.B. 43, provides that the salaries of all state officers and employees, except the salaries of district judges, be fixed by the general appropriations act for the coming biennium. H.B. 892 revises the schedule of fees to be received by notaries public.

*Other Legislation.* A desire to clarify the powers and duties of the

Attorney General with respect to charitable trusts prompted passage of S.B. 126. This act requires the Attorney General to be a party to certain judicial proceedings, settlements, and compromise agreements affecting charitable trusts.

S.B. 278 gives the Department of Public Safety authority to furnish legitimately interested parties information from driver's license records and provides for the fees to be paid for that service.

As a civil defense precaution, S.B. 340 provides for the continuity of the functions of Governor by extending the line of succession to that office. Under this act the Governor, Lt. Governor, and President Pro Tempore are to be succeeded, in order, by the Speaker, the Attorney General, and the Chief Justices of each of the Courts of Civil Appeals.

S.B. 272 provides rules and regulations for official state travel by state employees. This is a general statute regulating travel expense reimbursements by all state officers and employees, and replaces detailed regulations which previously were enacted as riders to the General Appropriation Bill and which had been of questionable legality.

A boat safety law, H.B. 11, was enacted, with boat licensing to be administered by the Highway Department.

H.B. 12, the Texas Shrimp Conservation Act, provides for the conservation of shrimp resources and makes the Game and Fish Commission the research and licensing agency.

## REGULATION OF BUSINESS

H.B. 344 requires all contractors entering into a contract involving more than \$2,000 with the state or any other governmental authority to execute two bonds. One is a "performance bond" in the amount of the contract in favor of the state or other government to insure that the work is completed in accordance with plans and specifications. The other is a "payment bond" to insure that subcontractors and suppliers of materials are paid the money that is due to them.

Two segments of the Texas economy were subjects of regulation by long, detailed codes. These were non-profit corporations (H.B. 145) and the shrimping industry (H.B. 12). The new laws are largely a codification of statutes already on the books.

H.B. 273 provides that no person may sue for a real estate brokerage fee without showing that he was a licensed real estate broker or salesman at the time the alleged services were commenced.

S.B. 175 allows Texas corporations to sell obligations and debentures having a term of more than five years without 100 per cent collateral which the old law required. However, a permit for the sale must be granted by the State Securities Commission.

H.B. 4, the "Liquefied Petroleum Gas Code," regulates in detail the sale, use, and handling of such liquefied petroleum products as propane and butane.

Under S.B. 438, eggs cannot be labeled "fresh" if held in cold storage for sixty days or more. Prior law specified thirty days or more.

S.B. 268 regulates the activity of dental technicians. Basically, this act provides that dental technicians may not do business except under a work order or prescription from a licensed and practicing dentist.

Several changes were made in the statutes concerning practitioners of veterinary medicine by S.B. 378. The State Board of Veterinary Medical Examiners may now set rules of professional conduct, with these rules becoming effective when approved by the Attorney General and filed with the Secretary of State. The old provisions providing for publication in a newspaper of general circulation have been superseded. This act also allows faculty members of reputable veterinary colleges or schools to renew their licenses by paying one-half of the usual renewal fee. The State Board's power to revoke licenses is broadened. The Board may now suspend a license if the holder violates the rules promulgated by the Board or if he permits another to use his license to practice veterinary medicine.

Several changes were made by H.B. 488, regulating the activity of pharmacists. The compensation for members of the State Board of Pharmacy was increased, as were the fees for examination and renewal and reciprocity licenses. Restrictions were loosened on faculty and senior pharmacy students who dispense drugs for the benefit of their educational institution. Additional grounds for revoking a pharmacy license were granted to the Board. The new changes hold a pharmacist responsible for any business as long as his name appears on the permit issued for the operation of such establishments. A license may also be revoked: (a) if the pharmacist substitutes one drug or brand of drug for the one ordered in the prescription or (b) if the licensee is a Communist or affiliated with that party.

## INSURANCE AND SECURITIES

The legislature passed several bills dealing with insurance. Most of them were rather technical in nature, but in general they were designed to allow the insurance industry more discretion in capital arrangement and investments.

*Life Insurance.* H.B. 44 liberalizes the investments permitted by life insurance companies in savings and loan associations and building and loan associations. The amount of insurance which can be carried under group life insurance plans is increased under S.B. 109. H.B. 391 permits investments in government debts or federally guaranteed debts, in first lien real estate loans where owner's equity is one-third of the value (prior law stated 40 per cent), and in other investments which the Board of Insurance considers of equal grade and quality with those approved by statute, under certain conditions. S.B. 319 allows debtors' life insurance to be written on persons with seasonal income from agricultural work. Certain other restrictions on authorized investments of Texas life insurance companies were relaxed by S.B. 377, because these limits did not apply to foreign insurance companies. Under H.B. 754, the Board of Insurance Commissioners is authorized to use the 1958 Standard Ordinary Mortality Table.

Three new laws make some changes regarding life insurance of minors and married women. S.B. 189 largely removes a guardian's restriction on investment of the ward's fund in life insurance and annuity programs. H.B. 506 allows a minor 14 years or older, without a guardian, to purchase life insurance and annuity contracts under the following circumstances: (a) the policies and contracts are issued by a stock or mutual legal reserve life insurance company that maintains the full legal reserve required by the laws of the state and is licensed by the State Board of Insurance; (b) the policies of insurance shall be owned by the minor and insure the life of the minor or a person in whose life the minor may have an insurable interest; (c) the minor shall be the annuitant of any such annuity contract during his life; (d) the minor, his estate, his parents, his grandparents, spouse, child, brother, or sister shall be the beneficiary of such policy; and (e) the application for policies and all agreements with respect to same must be signed by one of the minor's parents, grandparents, adult brother or sister, or by an adult eligible to be appointed guardian of the estate

of such minor. H.B. 316 permits a married woman to have control over her contract for life insurance or an annuity, subject to nullification by the husband.

*Health Insurance.* Several changes were made by S.B. 158 in the regulations governing group hospital non-profit corporations. (a) The prior statute stated that no paid officer could receive more than \$12,500 for his services. This restriction was removed, subject to approval by the board of directors or a committee thereof. (b) Certain changes, of a technical nature, were made concerning the investment of funds. (c) These corporations were authorized for the first time to pay benefits for medical and surgical care on the basis of indemnity payments for expenses incurred. (d) The companies were permitted to contract with similar corporations for joint participation of activities.

*Title Insurance.* Under the present law, all title insurance companies are required to place 5 per cent of gross premiums into a reserve, and such reserve will not exceed \$100,000. This new bill, S.B. 384, requires those domestic companies which have a reserve of \$100,000 to add 3 per cent of gross premiums into a reserve. The act also exempts from these regulations foreign title insurance companies doing business in Texas, provided the company's home state requires approximately the same reserve to be maintained.

*Other laws.* S.B. 248 allows more items to be counted as capital stock and minimum surplus in companies except those writing life, health, and accident policies.

The State Treasurer is allowed, under H.B. 472, to accept and hold voluntary deposits from Texas insurance companies. This action was necessary, because some states require insurance companies to have such deposits as a prerequisite to doing business in that state.

S.B. 156 provides that all insurance companies may choose their officers and that it is no longer necessary for an officer to be a director or stockholder unless required under the by-laws of the company.

The requirement that dividends may be paid only at the close of the year was repealed by S.B. 180.

To solve the problem of uneven, seasonal work in the state insurance department, S.B. 266 states that the licenses of insurance agents are now effective for one year from the date of the license, rather than automatically expiring on March 31 of each year. The same bill removes the requirement that insurance companies re-appoint agents each year.

S.B. 155 clarifies and details the method by which insurance companies must compute the amount of unearned premium reserve, and it adjusts the definition of liabilities accordingly. Prior to this session, the reserve was calculated on a different basis for each type of insurance; now the reserve is computed uniformly.

S.B. 379 provides that when two or more insurance companies merge or consolidate, the valid investments made by an absorbed company shall be valid investments for the new or re-organized company.

S.B. 241 broadens the classification of mutual assessment companies which do not have to obtain a certificate of authority to write insurance.

*Securities.* S.B. 361 exempts from the regulations of the Securities Act all private transactions concerning the oil and gas business. The legislature also passed the Uniform Act for Fiduciary Security Transfers (S.B. 148). The act protects corporations whose stock is held by a fiduciary (a person holding property for another; in other words, a trustee). Under this law, if the fiduciary sells the stock, the corporation may make the change on its books without inquiring into the authority of the fiduciary. In other words, the corporation may assume that the fiduciary has the power to make the sale. The act also provides a method by which a corporation whose stock has been sold can protect itself when the authority of the fiduciary to make the sale has been challenged.

## BANKING AND CREDIT

Branch banks, that is, single banks conducting business at more than one location, are forbidden in Texas. The old definition of branch banks required the bank to operate in one building. This definition was changed by S.B. 203 which permits the operation of "drive-in" windows which are not actually housed in the same building as the central office. These drive-in windows still must be within 500 feet of the main bank and connected to the main bank by a tunnel or similar device.

The banking code was amended in numerous respects by a single act, H.B. 400. None of these changes reflected a shift of basic policy, but were concerned with financial and managerial details. These changes include:

(1) The limit of \$4 per day for expenses of Finance Commission members was removed. Compensation of the members was raised from

\$5 to \$25 per day, not including expenses, while traveling to and from, or attending, meetings.

(2) The code provision stating that state banks must pay examination fees, even though an examination is not made, was repealed.

(3) The relationship between necessary capital to start a bank and the population of the area in which the bank is located was adjusted, generally toward a larger required capitalization.

(4) At stockholders meetings, stock owned, held, or acquired by the bank cannot be voted or counted in determining the necessary quorum.

(5) A bank board of directors may, with approval of the stockholders, elect an advisory board of directors of any number. The members of this advisory board do not have to meet the requirements as do other directors, but the advisory directors shall not vote as directors of the bank.

(6) The prior law stated that a vacancy on the board of directors will be filled by a majority vote of the remaining directors. H.B. 400 now provides that the election will be held within sixty days after the vacancy. However, if the vacancy reduces membership to less than five, the vacancy must be filled within thirty days.

(7) Unless the board of directors makes other provisions, the president of a bank shall be a member of the board and shall be chairman.

(8) Banks may acquire real estate for future expansion of the banking house if the property is improved within three years of acquisition.

(9) Certain limitations regarding real estate loans are removed if (a) the loan is unconditionally guaranteed by an agency of the U.S. Government; (b) the loan is for residential and farm buildings having a maturity of nine months or less; or (c) the loan is for commercial and industrial buildings having a maturity of eighteen months or less, under certain conditions.

(10) The limit of liability of one borrower is raised when the excess limit is secured by certain federal government bonds and notes.

(11) The language relating to cash reserve and reserve depositories which state banks are required to maintain was clarified.



## COUNTIES

In any legislative session, bills affecting counties or their officials and employees bulk large. While most of this legislation is important, almost all of it has very limited applicability, i.e., it applies to one or a few counties. For that reason, only those measures that have state or regional significance are summarized here.

*Compensation.* Several measures pertaining to the compensation of county officers and employees were enacted. H.B. 529 increases the car allowances granted county commissioners as follows: In counties of 21,500 or less, from \$50 to \$75 per month; in counties of 21,500 to 124,000, from \$75 to \$100 per month; in counties of 124,000 to 600,000, from \$100 to \$125 per month; and in counties over 600,000, \$150 per month. H.B. 152 increases the compensation paid Veterans County Service Officers. H.B. 113 amends an act of the 44th Legislature to permit county officers to accept payment for services rendered in connection with purchase or condemnation of rights-of-way for public roads or highways. H.B. 289 permits commissioners courts to set the fees paid commissioners appointed to assess damages in eminent domain proceedings, except that they may not be less than \$5 per day. H.B. 838 authorizes commissioners courts to provide hospitalization insurance for county employees.

*Other.* In two city-county bills, S.B. 206 authorizes a coordinated health program between cities and counties and provides for the creation of health districts; and H.B. 670 gives counties, with city consent, the right of eminent domain within cities for certain land, rights-of-way, and easements.

By reducing the population limitation from 50,000 to 20,000, S.B. 21 adds five Gulf Coast counties to those heretofore authorized to construct, through the sale of revenue bonds, causeways, bridges, or tunnels over or under the waters of the Gulf of Mexico.

S.B. 7 adds Korean War veterans to those veterans eligible to become Veterans County Service Officers or assistant officers.

H.B. 267 provides for the lettering of county vehicles, except sheriff's vehicles.

S.B. 178, although applying only to the four counties with populations of 350,000 and more, is significant because it requires certain Texas counties—for the first time—to have an independent post audit of their books, records, and accounts.

H.B. 509 authorizes the appointment of a county purchasing agent in counties of 73,000 or more population. The appointment is to be made by a Board composed of the Judges of the District Courts of the county and the County Judge.

S.B. 12 (3rd C.S.) authorizes counties to purchase or construct coliseums and auditoriums, payment to be made from the Constitutional Permanent Improvement Fund.

## CITIES AND TOWNS

Legislation affecting cities and towns usually plays a prominent role in any legislative session. Such was not the case in the 56th Legislature, however. Other than legislation relating to the employment conditions of policemen and firemen and the Texas Municipal Retirement System, nearly all city and town bills had limited applicability.

*Firemen & Policemen.* The big municipal development of the 56th Legislature was passage of S.B. 87 setting the hours and compensation of firemen and policemen. Normal maximum working hours for firemen were set as follows: in cities of over 10,000, 72 hours per calendar week; in cities of 60,000 to 125,000, 63 hours per week; in cities over 125,000, 60 hours per week. It further provides that, in cities over 10,000, non-firefighting personnel and policemen may not be required to work more hours per week than the number of hours in the normal work week of the majority of city employees, other than firemen and policemen. In addition, firemen and policemen must be paid time-and-one-half for hours worked in excess of these maximums.

*Retirement.* Of special interest to municipalities which have departments participating in the Texas Municipal Retirement System is S.B. 290. This act alters the conditions governing participation in the System as follows: (1) it gives municipalities and their employees the right to contribute to the System at the rate of 3 per cent, 5 per cent, or 7 per cent, rather than the 3 and 5 per cent rates permissible under current law; (2) it increases total contributions for both normal and prior service contributions from the present maximum of 7½ per cent to 9 per cent; (3) it gives a member who retired upon the basis of service eligibility a monthly pension during his lifetime; or in the event of his death before 60 monthly payments have been made, it entitles the member's beneficiary to such payments until the remainder of the 60 payments have been made; (4) in lieu of the standard service

benefit, it gives a retiring member the right to take the actuarial equivalent of his current service benefit in a current service annuity payable to the member during his lifetime, and adds a new option, in the event of his death and before 120 monthly payments have been made, to entitle his beneficiary to the remainder of the 120 payments; (5) it gives a member eligible for retirement the right to apply for deferred retirement to age 70, but states that retirement will be compulsory at age 70; and (6) it creates a "Supplemental Benefits Fund" to provide supplemental benefits for disabilities sustained in the line of duty. Employee contributions to this Fund are limited to one-half of one per cent.

S.B. 21 (3rd C.S.) amends the definition of "municipality" for membership purposes in the Texas Municipal Retirement System to include hospital districts whose boundaries are the same as those of an incorporated city participating in the system.

*Other.* Of interest to some cities is H.B. 339 which provides that a city cannot annex land owned by a navigation district without the prior consent of the district.

S.B. 420 authorizes cities and towns to acquire water and/or sewer systems from a sanitation district or nonprofit corporation.

S.B. 206 permits cities and counties to join together in a co-ordinated health program and provides for the establishment of health districts to administer the program.

H.B. 267 provides for the lettering of city (and county) vehicles, except for police vehicles, in cities (and counties) of less than 350,000.

H.B. 670 gives counties the right of eminent domain within cities, with the consent of the city, where land or rights-of-way are necessary to any road which forms a connecting link with the country road system or to a state highway.

S.B. 26 (2nd C.S.) authorizes home rule cities having a population of 200,00 or more to pledge property taxes for the payment of operating and debt service costs of their airports financed by revenue bonds. This bill, in effect, authorizes combination tax-revenue bonds for home rule cities of the size indicated.

## COURTS AND COURT PROCEDURE

*District Courts.* The state's judicial machinery was expanded by the creation of new district courts in the following counties:

(1) 121st District Court in Cochran, Hockley, Terry, and Yoakum counties (H.B. 87); (2) 132nd District Court in Scurry and Borden

counties (H.B. 518); (3) 146th District Court in Bell County (H.B. 542); (4) 161st District Court in Ector County (H.B. 168); and (5) two additional Criminal District Courts in Harris County (H.B. 436).

*Domestic Relations Courts.* Five new domestic relations courts were established, two in Harris County (S.B. 461), one in Nueces County (H.B. 54)—one in Gregg County (H.B. 718), and one in Dallas County. (S.B. 28, 3rd C.S.).

*County Courts.* Ector County (S.B. 70) and Nolan County (H.B. 119) received new county courts at law. S.B. 430 appoints the judge of the county court at law of Ector County as the county juvenile judge. The Brazos County Court, which had previously been a court of limited jurisdiction, had the regular county court civil and criminal jurisdiction restored to it by S.B. 23. S.B. 435 provided a method of equalizing probate matters between the Tarrant County Court and the Tarrant County Probate Court.

*Procedure.* One of the most interesting of the procedural changes enacted by the Fifty-sixth Legislature permits a defendant in a criminal trial to plead "nolo contendere" (S.B. 199). This plea means that, although the defendant is not pleading guilty, he will not defend himself. The effect of this plea is the same as if the defendant had pleaded guilty, except that the plea cannot be used against the defendant in any civil suit growing out of the act on which the criminal prosecution is based.

S.B. 3 (3rd C.S.) provides for a waiver of a jury in non-capital felony cases where a plea of *nolo contendere* (no contest) is made.

H.B. 96 makes it easier for Texas plaintiffs to give notice of suit to out-of-state residents in some instances. Another new law, H.B. 966 facilitates the giving of notice to persons who were residents at the time of an auto accident, but left the state before suit was brought.

S.B. 311 states that printed copies of tariffs, rates, and charges bearing an Interstate Commerce Commission or Railroad Commission of Texas number may be introduced into evidence without having an official of one of these bodies certify the document. This was done to allow a quick and inexpensive method of proving a point which is seldom in dispute.

H.B. 229 requires that the court appoint an attorney for indigent defendants in all felony cases. The old law required an appointed attorney only in cases where there was a possibility of a death penalty.

S.B. 332 gives a party in an eminent domain suit a method whereby

he may file notice of the pendency of the suit. This is to protect third parties who might be considering purchasing the land in question and do not know of the pending suit.

Under H.B. 242, photographic, photostatic, or microfilm copies of an original written document may be introduced as evidence in any administrative or judicial proceeding, under certain conditions.

H.B. 717 permits the administration of the estate of a person whose death cannot be proved by direct evidence, if it can be proven by circumstantial evidence.

A person on parole must receive, from the clerk of the court having jurisdiction over him, a copy of the conditions of parole and any changes thereof, according to H.B. 581.

*Other.* H.B. 38 (2nd C.S.) authorizes payment of a fee of \$25 per day to court appointed attorneys who represent indigents in felony cases. This payment is to be made from available county funds.

## ELECTIONS

Two bills dealing with elections received considerable publicity when passed by the legislature. The first, H.B. 158, moves the dates of the primary elections from July and August (runoff) to the first Saturdays in May and June. This same statute requires that the county conventions meet on the second Saturday in May to select delegates to the state convention. These delegates will represent the party in any state convention held during that year. This provision abolishes the two convention practice—one in May and the other in September which previously had to be chosen separately in presidential election years. The second law, S.B. 458, permits a person to run for two offices on the state ballot, provided that one of the offices is for President or Vice-President of the United States. Both bills were passed as measures to accomodate the senior United States Senator from Texas who is considered to be a possible candidate for the Presidency.

One of the most important election bills was H.B. 26, requiring a declaration of party affiliation. This law provides that each poll tax or exemption shall have a space for party affiliation. At the time a person pays his poll tax, this space will remain blank. There is no requirement that a voter declare his party affiliation at this time. When the voter first votes in a party primary or attends a party convention, however, his poll tax is stamped with the name of the party in whose

activity the voter is participating. This then becomes that person's political affiliation during the remainder of the poll tax period, and he may not participate in the affairs of any other political party.

H.B. 186 and H.B. 134 concern the conduct of absentee balloting. The former bill allows the use of paper ballots for absentee voting for precinct officers, even though voters on election day will cast their ballots by using a voting machine. The latter bill states who shall be eligible to vote absentee and provides in detail the manner of voting. This new law provides no basic change in the method of absentee voting, but merely clarifies the general language of the old statute. The emergency clause of H.B. 134 states that these changes were necessary to correct abuses of absentee voting in some parts of the state.

H.B. 115 requires the county executive committee, after canvassing the votes of a primary election, to file the results with the county clerk.

Under the provisions of S.B. 118, persons who are deaf or dumb will no longer be exempt from paying a poll tax as a prerequisite for voting.

## EDUCATION

*Higher Education.* The Fifty-sixth Legislature expanded the state's higher education program by raising two colleges to four-year rank, and by adding one to the state system. Tarleton State College (H.B. 8) and Arlington State College (H.B. 6) were elevated to four-year status, and Midwestern University was accepted into the state college system. In addition, the Board of Regents of The University of Texas was directed by H.B. 9 to establish a third medical school in Bexar County.

Under S.B. 6 (2nd C.S.) the governing boards of the state's colleges and universities were authorized to impose student service fees up to a maximum of \$30 per semester or summer session. These fees, either voluntary or compulsory at the option of each governing body, include such services as health and hospital services, intramural and intercollegiate athletic events, cultural entertainment, student publications, and the like.

*Teacher Retirement.* Three bills made adjustments in the regulations of the teacher retirement system. H.B. 30 allows retired teachers to be employed as substitute teachers for up to 60 days without losing their retirement benefits. S.B. 134 raises the annual fee collected from each member from \$2 to \$3, and H.B. 874 extends indefinitely the period

for which a member may pay in and count years of military service toward teacher retirement. These years on active duty may be added to his period of service by depositing, for each year in the armed forces, an amount equal to the deposit he made during his last preceding year of teaching service.

*General.* S.B. 250 permits the use of school funds to purchase insurance for bodily injuries received in interschool athletic contests. A three-month pre-school program to instruct non-English speaking children in English was authorized by H.B. 51. Under S.B. 226, the School for the Blind is permitted to purchase textbooks in large type as well as Braille. S.B. 271 adds journalism to the list of high school subjects for which the state furnishes free textbooks.

## WATER

For the first time in a number of years legislation involving the supply and/or control of water played a secondary role in a legislative session. The major "water news" of the 56th Legislature had to do with what did not pass, rather than with what did. (See page ....).

As usual, this legislature passed a host of special or local laws creating new water districts or amending the statutes governing existing ones. An example of the former is H.B. 156 creating a water control and improvement district in Grayson County. Another is H.B. 7 creating the Edwards Underground Water District in parts of Bexar, Comal, Hays, and Medina counties. An example of the latter is H.B. 341 allowing Lake Fork Water Control and Improvement District No. 1 to levy a special assessment on land within the district benefitted by floodwater retarding structures constructed by the district.

In similar vein, H.B. 94 amends the statutes governing water improvement districts to allow such districts to elect directors for staggered terms of office. S.B. 36 broadens and makes more explicit an act passed by the Fifty-fifth Legislature allowing cities of 275,000 or more to issue revenue bonds to construct facilities for acquisition of a water supply from a river authority.

H.B. 2 amended the authorization to construct small dams and reservoirs of less than two hundred acre feet without a water permit (Art. 7500a). The amended act still permits such construction, but the owners of any such dam or reservoir who wish to use the water for other than domestic or livestock uses now must request a permit from the Board of Water Engineers.

An act of the 1955 Legislature creating the Texas Water Development Board was amended, by S.B. 213, to allow the Board to sell up to \$15,000,000 in bonds in any six-month period. Under the original act, the Board could not sell its bonds until an assistance project had been given final approval. The change will make it possible for the Board to market its bonds in a more orderly and economical manner.

## HEALTH AND WELFARE

*Health.* A bill known as the "Texas Tuberculosis Code," H.B. 421, makes provision for the care and hospitalization of tubercular persons.

H.B. 151 provides for the control and eradication of vesicular exanthema in swine. A similar bill, H.B. 31, does the same for bovine brucellosis. H.B. 135 authorizes the Livestock Sanitary Commission to prevent the dissemination of communicable livestock diseases by regulating the movement of livestock markets and through an inspection system.

S.B. 121 calls for the licensing of hospitals and for the establishment of standards for the construction and operation of hospitals.

S.B. 32 makes provision for the vitamin and mineral enrichment of milled corn meal and corn grits.

In a major piece of legislation, H.B. 556, many of the current provisions regulating the possession, sale, and handling of "dangerous drugs" were replaced by a more definite law.

H.B. 819 authorizes cities of 5,000 and over to require land owners to conform to certain city health regulations with regard to property. The prior law restricted that power to cities of 35,000 or more.

Under H.B. 58 (2nd C.S.) health inspectors are forbidden to enter a private residence without permission of the owner, authorization by a magistrate, or by order of a court of competent jurisdiction. This law was passed to overcome a recent U. S. Supreme Court decision which upheld the entrance of a private residence by a health inspector without a court order.

*Welfare.* The principal welfare measure of this legislature was S.B. 53 providing for the payment of pensions to former Texas Rangers and their widows. To be eligible for a pension of \$80 per month, former Rangers must: (1) have served for at least two years prior to 1947; (2) be at least 60 years of age; (3) not have been dismissed from service; and (4) not have been eligible for membership in the



Employees' Retirement System of Texas. A widow may receive the pension if she was married to a Ranger prior to January 1, 1957 and at the time of his death, and if her husband met the conditions stated above.

S.B. 164 amends the statute pertaining to birth certificates by deleting the item relating to legitimacy status.

## HIGHWAYS AND MOTOR VEHICLES

In one of the most hotly contested issues of the 56th Legislature, S.B. 11 raised the maximum weight limit on commercial trucks from 58,420 to 72,000 pounds. The new limit and revised axle load schedule becomes effective on January 1, 1960.

H.B. 99 requires trucks, except pole trailers, truck-trailers operated alone, and trucks operated on private property, to be equipped with safety guards or flaps suspended behind the rearmost wheels. This amended an existing law which required trucks to carry such equipment only on wet highways.

S.B. 22 amends the "Certificate of Title Act" to provide for the inclusion of trailers and semitrailers having a gross weight in excess of 4,000 pounds (except trailers and semitrailers used solely for hauling farm products, if such products are not transported for hire), and authorizes the State Highway Department to assign serial numbers to such trailers and to house trailers.

Several bills amend existing provisions governing the lighting of vehicles. H.B. 375 permits a parked vehicle to display an amber, as well as a white front light. S.B. 421 adds, in detail, to statutory prohibitions relative to lighting equipment and warning signals on motor vehicles.

Under H.B. 863, commercial motor vehicle owners may, for limited periods and upon the payment of a fee, haul loads larger than authorized tonnage.

S.B. 195 sets a flat \$10 registration fee on motor vehicles owned by nonprofit service organizations and used primarily for parade purposes.

H.B. 993 clarifies the present authority of the State Highway Commission and Commissioners Courts to load zone the highways and roads under their jurisdiction.

S.B. 33 (2nd C.S.) spells out in more detail the right of appeal and trial *de novo* in cases where drivers' licenses have been suspended by

the Department of Public Safety. Appeal must be filed within 30 days, and while the case is on appeal the driver's license is not suspended. This law for the first time also defines the term "habitual violator" as a person with four or more convictions within a consecutive period of 12 months, or seven or more convictions within a 24-month period.

## CRIMINAL LAW

S.B. 9 makes shoplifting, as defined in the statute, a separate penal offense with the third offense a felony.

H.B. 201 forbids a person to use the word "wholesale" in any form of advertising unless the business is in fact a wholesale business as the term is defined. This act also makes it a crime for anyone to misrepresent the true ownership of a business to carry on a liquidation sale or other sale which represents that the firm is going out of business.

S.B. 47 tightens the statute concerning the desertion of a wife or child. A father is now responsible for the support of a child until the age of eighteen, instead of sixteen as under the old law. It also provides that the offense of wife or child desertion is a felony, punishable by up to five years in prison, if (1) the husband or father is guilty of a second offense or (2) if he deserts his wife or child by leaving the State of Texas.

Before the passage of S.B. 221, there had been no adequate laws to discourage the illegal taking of an automobile. To prosecute for car theft under the general theft provisions, there must have been a taking of property with the intent to deprive the owner the use of the property. Often a person will take a car and later return it; thus there has been no theft because the intent element was missing. This statute remedies the situation by providing a maximum penalty of three years in prison for driving a vehicle without the owner's consent.

S.B. 367 more broadly defines the crime of "pandering."

H.B. 356 makes it a crime to use an expired or revoked credit card to purchase motor vehicle supplies or services.

## OTHER LAWS

An important piece of legislation passed by the Second Called Session was the so-called "Beach Bill." This law (S.B. 9) guarantees to the public the free and unrestricted access to beaches along the Gulf

of Mexico, including the area from the line of mean low tide to the line of vegetation. It was designed to overcome a decision of the Texas Supreme Court<sup>2</sup> which held that under governing Spanish law, the shoreline was, in substance, the mean high tide. Under this decision, much of the beach area usable for public recreational purposes would have been brought within the property limits of adjacent private landowners and therefore could have been fenced to prevent public access.

S.B. 13 (1st C.S.) is the advance enabling legislation authorizing the creation of a hospital district within Commissioners' Precinct 4 of Comanche County. It will become effective only if the constitutional amendment on the same subject is approved by Texas voters in the November, 1960 election. H.B. 532 grants similar authority to create a hospital district in Lamar County to care for indigent and needy persons within the county.

Under H.B. 617, a parent or legal guardian of a child that has been adjudged delinquent may be held financially responsible for the willful or malicious acts of the child. A cash bond may be required by the juvenile court when a child is put on probation and placed in the custody of the parent or guardian.

H.B. 48 (2nd C.S.) requires that marriages involving a man under the age of 21 years and a woman under the age of 18 must have consent and accompaniment of parents at the time application is made for a marriage license. The law also requires a three-day waiting period for such marriages, but this requirement may be waived at the discretion of the County Judge.

H.B. 36 (2nd C.S.) prohibits entrance on enclosed lands for hunting and fishing purposes. It was designed to protect large tracts of land which surround smaller tracts under different ownership from being hunted and fished by owners and occupants of the interior tracts. Owners and users of interior lands are given the right of ingress and egress through the surrounding land.

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<sup>2</sup> *J. W. Lutes v. The State of Texas*, 324 S.W.2d 167.

# Proposed Constitutional Amendments

Four constitutional amendments were approved by the legislature for submission to the voters. All four will be voted on at the general election in November, 1960.

*S.J.R. 6* would amend Article III, section 49-b to increase from three to three and one-half per cent the maximum permissible interest rate on bonds issued by the Veteran's Land Board.

*H.J.R. 3* would allow legislators an annual salary not to exceed \$4,800; plus up to \$12 per diem for the first 120 days of each regular legislative session and for 30 days of each special session. It would further limit regular sessions to a maximum of 140 days. Legislators are presently limited to \$25 per day for both regular sessions (120 days) and special sessions (30 days).

*H.J.R. 6*, the "loan shark amendment," would give to the legislature authority to classify loans and lenders, license and regulate lenders, and fix maximum rates of interest. The amendment further provides that, in the absence of legislation fixing maximum interest rates, contracts for a greater rate of interest than 10 per cent per annum shall be deemed usurious.

*H.J.R. 39* permits the legislature to authorize the creation of three new taxing hospital districts: county-wide districts in Lamar and Hidalgo counties and a district coterminous with Commissioners Precinct No. 4 of Comanche County. Districts in Lamar and Comanche counties would be limited to a maximum tax rate of 75 cents on each \$100 valuation; the Hidalgo County district would have a 10 cent maximum. In addition, the legislature could also authorize that part of Comanche County not included in the district to participate in the

district by levying a tax of 10 cents for its support. This is the fourth hospital district amendment submitted to the voters in the past decade.

## Bills Vetoed

*Regular Session.* The Governor vetoed ten bills passed by the regular session. He vetoed H.B. 82, dealing with the admissibility of evidence in certain official records, because it would raise serious problems of proof of prior conviction in criminal trials. He also vetoed H.B. 27 which would have permitted the granting of short-term water permits. In so doing, the Governor expressed the fear that this act might be construed as restricting the granting of water permits in categories other than those specified in the act.

H.B. 440 provided the procedure for appeals from an agency of the state government to a court. The bill provided that in all proceedings, the substantial evidence rule could not be used unless the statute concerning the appeal specifically provided therefor. The substantial evidence rule states that the decision of a state agency will be upheld by the courts if the court in question can find that the action of the agency was based on "substantial evidence." This act would have required the court to review *all* the relevant evidence in more cases involving administrative agency decisions than the present law demands. The bill was rejected on the ground that it would disrupt the oil and gas conservation procedures of the Railroad Commission, and there was also serious doubt of its constitutionality.

An increase in attorney's fees for representing indigents in felony cases, as authorized by H.B. 230, was also vetoed. The Governor felt that this subject should be at the discretion of the trial judge. However, the second called session in H.B. 38 authorized payment of a fee of \$25 per day to court appointed attorneys in indigent cases (See *Courts and Court Procedures*).

At the request of the author of the bill, Governor Daniel vetoed H.B. 734 which would have exempted certain sewer service and water supply corporations from the franchise tax.

H.B. 921 permitting one water district to sell bonds without the approval of the water board was rejected because it would conflict with the general law governing bonds of this type.

The state's chief executive also objected to H.B. 936, which provided payment to persons who paid fines or served terms and were later found innocent, on the grounds that no limitation on the amount of payments was included.

Three bills were vetoed because legislation on the same subject had already been passed and approved. One, H.B. 945, permitting the Board of Health to sell a certain tract of land, was disapproved because permission was granted in another bill. The second was H.B. 986 which established water safety rules for Lake Texoma. A state-wide water safety law, applicable to all lakes over which the state has jurisdiction, had already been signed into law. The third was S.B. 92 which would have allowed the County Judge the same automobile allowance permitted to the County Commissioners. H.B. 529, which revised the car allowance for the County Commissioners Court, included the County Judge.

*First Called Session.* Three items passed by the Legislature during the first called session were vetoed by the Governor. H.B. 61, authorizing an election in the City of Rusk to determine if that city will withdraw from the Upper Neches River Municipal Water Authority, was rejected because the same subject matter is dealt with in a later bill. S.B. 11 would have enlarged the boundaries of the Fort Bend Water Control and Improvement District No. 2. It was killed when it was discovered that the enlarged boundaries overlapped another water district. S.C.R. 8 would have authorized a fee for admission to the San Jacinto Memorial Monument and Museum. The Governor stated that this shrine should remain free to the citizens of Texas.

*Second Called Session.* S.B. 13, relating to bidding procedures for cities, counties, and districts, was vetoed at the request of the author. A similar bill, S.B. 5, was passed in the third called session which would clear some difficulties of construction which were apparently contained in S.B. 13. Both of these were amendments to S.B. 129, Regular Session.

H.B. 40 related to authority of the State Board of Water Engineers to grant limited term water permits. This bill was the same as H.B. 27, regular session, except that it would apply to only one county. The Governor stated that he vetoed this bill for the same reason that he vetoed H.B. 27. He added that he felt it was poor policy to devise water legislation applicable to counties or areas of certain population brackets.

*Third Called Session.* The Governor vetoed three specific items in the General Appropriation Bill passed by the Third Called Session. These were: (1) \$1,260,000 for a home for senile persons; (2) \$1,033,500 for interim legislative expenses; and (3) \$200,000 for tourist advertising by the State Highway Department. The appropriation for a home for senile was vetoed because it had not been requested in original budget submissions and because the hospital board does not have legal responsibility for seniles. The Governor also stated that he felt the state policy should be to place senile persons in private rest homes near their families rather than in state institutions. In disapproving the appropriation for interim legislative expense, the Governor said it was unnecessary since the Legislature had subsequently appropriated \$330,000 under a separate bill for future legislative expenses. The veto of the tourist advertising appropriation was based on the judgment that it would have meant a restriction of a similar program already being carried on by the Highway Department and adequately financed under other appropriations.

In addition to the three item vetoes, two additional acts (S.B. 14 and S.B. 26) were vetoed at the request of their respective authors. S.B. 14 would have validated certain additions of land to Dallas County Water Control and Improvement District No. 6. S.B. 26 would have created Road District No. 12 in Hidalgo County.

## Interim Studies

The purpose of interim studies—investigations of specific problems made in the interim between legislative sessions—is to assist and guide

the legislature in its role as the policy making body of the state. Increasing recognition of the need for such assistance has prompted the legislature to depend more and more on the use of interim study commissions and committees and on its own "research arm," the Legislative Council.

The Fifty-sixth Legislature has asked that several studies be conducted in its absence from the state capitol. Several of the requests were continuations of studies initiated by the Fifty-fifth Legislature. Some of the requests were approved by both houses, others by only one house.

#### BY BOTH HOUSES

*H.C.R. 58* requests the Governor and Legislative Budget Board to continue their classification and salary plan study and to make recommendations to the next regular session of the legislature for the installation of a classification and salary pay plan for state agencies.

*H.C.R. 70* requests the Texas Research League to continue its study on state finances.

*H.C.R. 92* directs the Legislative Council to study the problems of municipal annexation.

*H.C.R. 112* directs the Legislative Council to study the acquisition of rights-of-way by the state.

*S.C.R. 17* creates the Texas Educational Standards Commission to study the curricula of Texas public schools.

*S.C.R. 18* establishes the Texas Commission on County and City Government to study consolidation of city and county services.

*S.C.R. 32* creates a successor committee to study the problem of the aged citizens of Texas.

*S.C.R. 42* authorizes creation of a committee to study the effects of radiation.

*S.C.R. 56* requests the State Board of Education to make a natural resources curricula study.

*S.C.R. 62* directs the Legislative Council to continue its study of the state's special funds.

*S.C.R. 63* directs the Legislative Council to make a study of fees charged by departments and boards of the Executive Branch.

*S.C.R. 64* requests the Texas Commission on Higher Education to study the need and feasibility of making the University of Houston a fully-supported state institution. This study will also include the



possibility and desirability of making the University of Houston a branch of The University of Texas.

*S.C.R. 65* directs the Legislative Council to continue its study of state-owned submerged lands and islands.

*H.B. 354* creates the Texas Commission on State and Local Tax Policy to study property taxation and other revenue and taxation measures. The Commission is directed to report its findings to the Fifty-seventh and Fifty-eighth Legislatures in 1961 and 1963.

*H.C.R. 9* directs the Commission of Higher Education to make a survey of the procedures and policies followed in the state's institutions of higher education in determining the residency status of students and to prepare a guide for the determination of residency status.

#### BY ONE HOUSE

A number of other studies were requested by only one house of the Legislature. Water resources were the subject of two resolutions. *H.S.R. 535* requested that the Legislative Council study possible ways and means for adequately financing the Board of Water Engineers, and *H.S.R. 576* called for the creation of an interim committee to codify the laws pertaining to local water districts.

The largest number of resolutions in this category requested investigations of some phase of state administration. Five separate resolutions called for legislative investigations of efficiency and economy in administration. *S.R. 48* authorized the appointment of a five-membered Senate General Investigating Committee to continue inquiries relative to the administration of state laws and any matters pertaining to or affecting the revenues and expenditures of the state. *H.S.R. 202* similarly provided for the creation of a "General Investigating Committee" for the House to make inquiries into matters pertaining to state government. Another interim group, to be known as the Committee on Saving Taxes, was called for in the first called session by *H.S.R. 152*. This committee is to seek ways and means of reducing cost and of eliminating waste and extravagancies in the state's operations. The Senate in *S.R. 73* (1st C.S.), likewise, called for the creation of "Cost of Government Investigation Committee."

Two other resolutions, *S.R. 566* and *H.S.R. 76* (2nd C.S.) also called for studies pertaining to legislative oversight of administration. *S.R. 566* provided for the creation of a Senate interim committee to investigate the investment practices, purchases, and handling of the

funds of the Teacher Retirement System, the Permanent School Fund, the Employees Retirement System and University of Texas Permanent Fund. H.S.R. 76 (2nd C.S.) directed that an interim committee consisting of the executive director of the Legislative Council, the State Auditor, the Director of the Legislative Budget Board, a representative of the Railroad Commission and a representative of the Comptroller of Public Accounts study the present methods of reporting the production of oil and gas and the computation of the taxes thereon, in order to reconcile the definitions and records of the Railroad Commission and the Comptroller of Public Accounts.

The House of Representatives called for further study of the state's escheat laws in H.S.R. 95 (3rd C.S.). The resolution requests the Governor, the Attorney General, and the Banking Commissioner to review and make recommendations for the improvement of the existing laws.

S.R. 330 called for a Senate committee to study methods and means for conserving the paintings in the Senate.

H.S.R. 19 (1st C.S.) requested the Texas Commission on Higher Education to study and re-appraise the need and advisability of authorizing the Board of Regents of Del Mar Junior College in Corpus Christi to offer junior and senior college work in limited fields without expense to the state.

Hospitals and mental health were the subjects of two resolutions enacted by one house of the Legislature. H.S.R. 5 (2nd C.S.) called for the appointment of an interim committee to observe and study the operations of the state's hospitals and special schools, and to seek possible ways of improving their efficiency and economy. H.S.R. 11 (2nd C.S.) requested the Legislative Council with the co-operation of the Attorney General, the Board of Texas State Hospitals and Special Schools, the State Health Department, the appropriate medical and psychopathic component units of The University of Texas, the Texas Civil Judicial Council, and the Texas Department of Corrections to make a study of the Texas Mental Health Code and its administration.

Roads and traffic were the subjects of three legislative requests for studies. H.S.R. 94 (1st C.S.) provided for an interim committee to investigate the overall road building and maintenance program with a view to adopting new formulas of tax allocation and construction

and maintenance expenditures. H.S.R. 425 requested the Legislative Council to study the problem of the uninsured motorist with special attention to the operation of compulsory liability insurance plans. And S.C.R. 7 (3rd C.S.) requested the Texas Traffic Safety Council, the Texas Commission on Higher Education, and the Board of Directors of Texas A & M College to make a study of the feasibility of giving all necessary training to employees of the state who are engaged in traffic safety activities at appropriate institutions within the state.

## Bills and Resolutions Not Enacted

In all legislatures there are proposals which never become law, even though there is wide interest and considerable support in their behalf. These vary all the way from specific items of a substantive nature lost by amendment in bills which became law to major bills which are rejected in their entirety. The Fifty-sixth Legislature had a typical share of such measures, some being formally defeated in committee, others killed by formal action in the House or Senate, and still others not being acted upon. This section mentions some of the more important proposals which met one or another of these fates.

### EDUCATION

The most prominent single package of proposals which did not get through the Legislature was that designed to implement the recommendations of the Hale-Aikin Committee relative to public education (S.B. 5 and H.B. 22). The main provision of these bills was an increase in the minimum salaries of public school teachers to \$4,014 per year. Other items included an extension of the school year to 180 days of instruction, the addition of driver training to special services, and re-

visions in the provision and allocation of professional positions and units under the Minimum Foundation School Program.

Other education bills failing to pass were H.B. 709 and S.B. 274 which would have raised the compulsory school attendance age limit from sixteen to eighteen years.

## WELFARE

For the first time in a number of years, the Legislature did not pass an enabling act pursuant to a constitutional amendment approved by the voters of Texas. The legislation in question was H.B. 37 and S.B.'s 196 and 273 which would have provided direct medical payments to welfare recipients. The constitutional amendment authorizing such payments (Art. III, sec. 51-a) was approved by the voters in November, 1958.

## TAXATION

With the legislature so preoccupied with the tax problem, it was to be expected that there would be many individual tax bills introduced into the legislative hopper which would not be enacted into law. This proved to be the case. Two measures received strong support, but lost out in the final rounds prior to passage of H.B. 11 by the Third Called Session. These were the proposal to reduce the tax on sulphur from the present rate of \$1.40 per long ton to \$1.03 (to make the rate equal with that of Louisiana) and the proposal to exempt city transit companies from taxes on motor fuel. Two other measures, both included in the Governor's initial tax recommendations, were declared unconstitutional by the Attorney General, and therefore did not receive formal action by either house. These were the amendments to cancel the exemption extended to service personnel under the beer and cigarette tax laws.

The remaining number of unpassed tax bills in the general session can be divided into several categories. The *first* group would have abolished a major tax. In this category were H.J.R. 4 and H.J.R. 21 proposing a constitutional amendment to abolish the state property tax for school purposes and to meet the resulting deficit in the Available School Fund from general funds. The *second* category would have reduced the yield of existing laws. H.B. 224, designed to reduce the tax rates on chain stores, came in this category along with the

sulphur tax rate reduction mentioned earlier. A *third* group pertained to the administration and enforcement of present taxes. Examples here were H.B. 855 which would have eliminated cigarette tax stamps in favor of inventory reports in administering the cigarette tax, and H.B. 432, which would have barred the collection of property taxes due the state and local governments which were delinquent prior to December 31, 1939. A *fourth* category of unpassed bills included a wide variety of new tax proposals with decidedly limited revenue and fiscal significance. This group included such measures as H.B. 307 which would have imposed an occupation tax on trading stamps, H.B. 576 levying a tax on dealers in scrap metal, H. B. 627 levying a gross receipts tax on the sale or use of phonograph records, and H.B. 585 levying a tax on the business of publishing newspapers, outdoor billboard advertising, and operation of television and radio stations. The *fifth* and final category was composed of those bills proposing new taxes of considerable revenue and policy significance to the present and future state tax structure. Some of the more important in this group were the following:

H.B. 20—Graduated corporate income tax.

H.B. 739—Retail sales tax.

H.B. 41—Graduated tax on crude oil.

H.B. 84—Gross receipts tax on manufactured products.

H.B. 727—Gross receipts tax on retail sales.<sup>a</sup>

H.B. 891—Personal and corporate net income taxes less credits for other taxes paid to state and local governments.

H.B. 900—General sales, personal income, and corporate income taxes.

H.B. 800—Gross receipts business privilege tax.

H.B. 490—Corporate income tax.

H.B. 786—Gross receipts tax on sale of produced or manufactured goods.

H.B. 843—Tax on dedicated natural gas based on percentage of difference between selling price of gas and a stated figure.

As a final note on tax bills not enacted, it should be stated that there were several separate bills which were not enacted into law as such but which, with amendments, were finally included in the major tax bill, H.B. 11, (3rd C.S.). Also, some of the rejected tax bills from the regular session were reintroduced into the special sessions only to meet a similar fate there.

<sup>a</sup> H.B. 727 was finally passed by the House in the closing days of the general session, but did not contain the tax here noted.

## THE ESCHEAT BILL

Closely related to these tax proposals was the revenue proposal in the Governor's financial plan known as the escheat or abandoned property act. This act, H.B. 32, would have required reporting and payment to the Comptroller of Public Accounts of unused and unclaimed funds, deposits, and moneys which had been in the possession of banks and certain other business institutions for seven years or longer. The act would have produced a sizeable "windfall" shortly after its enactment, but only a relatively small amount of revenue in subsequent years. It was defeated in both the regular and called sessions.

H.S.R. 95 (3rd S.S.), which the House enacted, requested that the Governor, Attorney General, and Banking Commissioners review existing escheat laws and make recommendations for the improvement of the existing laws.

## SMALL LOANS

None of the bills designed to regulate the rate of interest on small loans were passed. This group included H.B. 599, H.B. 58, and H.B. 34. However, as noted elsewhere in this publication, a constitutional amendment (H.J.R. 6) authorising such regulation will be voted on by the people in November, 1960.

## WATER

The failure of the Board of Water Engineers to obtain the appropriation requested by it and recommended strongly by the Governor will make it virtually impossible for the Board to prepare a complete, state-wide plan for water resource development. Compared to the request of \$1.7 million for each year of the biennium, the legislature appropriated slightly more than \$1 million for each year.

## MUNICIPALITIES

One of the most important pieces of city legislation introduced but defeated in the Fifty-sixth Legislature was H.B. 173. This bill would have repealed Articles 1583-1 and 1583-2 of the Penal Code regulating the working hours and wages of firemen and policemen and

thereby would have given exclusive jurisdiction over such matters to cities.

Other measures of importance to cities which failed included H.J.R. 60 which proposed a constitutional amendment to allow cities and towns to make classifications of property for tax purposes. H.J.R. 25 sought to allow cities, counties, and health districts the power to levy a 25 cent tax for public health or mosquito and vector control programs. H.B. 133 would have authorized cities to regulate the production of milk fat content of various grades of raw milk. H.B. 98 provided that undeveloped land within a city's boundaries could be disannexed from the municipality by a favorable vote of either a majority of the residents of the area in question or the owners of a majority of the land. S.B. 30 would have permitted cities to levy any kind of tax not specifically prohibited by the constitution or general law.

## OTHER LEGISLATION

*State Administration.* The Legislature turned down H.B. 29 setting up a little Hoover Commission to study the reorganization of state government.

S.B. 423 would have imposed certain investment standards for the permanent school fund, the state employees retirement system, and the teacher retirement system, and would have placed the investment of these funds under a central nine-member board.

*Counties.* H.B. 531 would have required applicants for registration of motor vehicles to show paid property tax receipts for such vehicles. This was another effort, previously defeated in several other legislatures, to improve administration of the personal property tax on automobiles.

H.J.R. 40 would have amended the constitution to provide that the county tax assessor and collector collect the taxes levied by all governmental units within the county.

*Highways and Motor Vehicles.* H.B. 39 (2nd C.S.) would have given the Highway Department authority to fix speed limits up to 70 miles per hour on certain highways.

*Labor.* Two important pieces of labor legislation did not pass. H.B. 13 would have allowed state, county, and municipal employees to organize into unions and would have permitted the government

involved to recognize the union. S.B. 3 would have limited the spending of unions and would have required a periodic audit of a union's financial records.

*Insurance.* H.B. 88 would have made it unlawful for any person whose interest is adverse to an injured person from taking any statement from or negotiating any settlement or release from an injured person within fifteen days of the injury. The bill was aimed primarily at insurance adjusters who make settlements with an injured person before the person has a chance to consult an attorney about his rights.

*Court Procedure.* H.B. 667, the Public Defender Act, would have allowed any county or counties to establish the office of public defender. The official would act as the attorney for indigent persons accused of a felony.

S.B. 59, which would have established the office of public defender in counties of more than 250,000 population, also did not pass.

S.B. 254 would have abolished the requirement of a unanimous agreement of a jury in civil actions.



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